

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

RANDAY TOLIVER

v.

MARTIN BRADDY, ET AL.

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Civil Action No. 4:20-CV-132
(Judge Mazzant/Judge Nowak)

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636. On February 7, 2021, the report of the Magistrate Judge (Dkt. #52) was entered containing proposed findings of fact and recommendations that Defendant Judge Eddie Northcutt's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6) (Dkt. #32) be granted in part and denied in part. Plaintiff acknowledged receipt of the report on February 12, 2021 (Dkt. #54).

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the Court.

It is therefore **ORDERED** that Judge Northcutt's Motion to Dismiss (Dkt. #32) is **GRANTED IN PART** and **DENIED IN PART**. Plaintiff's claims against Defendant Judge Northcutt in his official capacity are **DISMISSED WITHOUT PREJUDICE**, and Plaintiff's claims against Judge Northcutt in his individual capacity are **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED.

SIGNED this 8th day of March, 2021.


AMOS L. MAZZANT